

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 239

HOUSE BILL 2159

AN ACT

AMENDING SECTIONS 9-514, 9-571, 48-959 AND 48-1019, ARIZONA REVISED STATUTES;
RELATING TO WATER INFRASTRUCTURE FINANCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-514, Arizona Revised Statutes, is amended to
3 read:

4 9-514. Authority to engage in utility business

5 A. EXCEPT AS PROVIDED IN SECTION 9-571, before construction, purchase,
6 acquisition or lease by a municipal corporation, as authorized in sections
7 9-511, 9-511.01, 9-511.02, 9-512 and 9-513, of any plant or property or
8 portion of plant or property devoted to the business of or services rendered
9 by a public utility shall be undertaken, the construction, purchase,
10 acquisition or lease shall be authorized by the affirmative vote of a
11 majority of the qualified electors who are taxpayers of the municipal
12 corporation voting at a general or special municipal election duly called and
13 held for the purpose of voting upon the question.

14 B. This section does not apply to the construction, purchase,
15 acquisition or lease of water or sewage system utilities by a city or town
16 incorporated pursuant to section 9-101.02.

17 Sec. 2. Section 9-571, Arizona Revised Statutes, is amended to read:

18 9-571. Wastewater treatment and drinking water treatment
19 facilities and nonpoint source projects; financial
20 assistance loan repayment agreements; definitions

21 A. Notwithstanding any other law, a city or town may construct,
22 acquire from a willing seller or improve a wastewater treatment facility,
23 drinking water facility or nonpoint source project with monies borrowed from
24 or financial assistance including forgivable principal provided by the water
25 infrastructure finance authority of Arizona.

26 B. To repay financial assistance from the water infrastructure finance
27 authority of Arizona a city or town may enter into a financial assistance
28 loan repayment agreement with the authority. A financial assistance loan
29 repayment agreement is payable from any revenues otherwise authorized by law
30 to be used to repay long-term obligations. If revenue from a property tax
31 assessment is the designated source of repayment under the agreement, the
32 property tax assessed and levied is a secondary property tax levy for
33 purposes of article IX, Constitution of Arizona.

34 C. FOR ANY CITY OR TOWN WITH A POPULATION OF MORE THAN FIFTY THOUSAND
35 PERSONS, the governing body of ~~a~~ THE city or town shall submit the question
36 of entering and performing a financial assistance loan repayment agreement to
37 the qualified electors voting at a regular or special ~~general~~ election in the
38 city or town. FOR A CITY OR TOWN WITH A POPULATION OF FIFTY THOUSAND PERSONS
39 OR LESS, THE REVENUES OF THE CITY'S OR TOWN'S UTILITY SYSTEM OR SYSTEMS MAY
40 BE PLEDGED TO THE PAYMENT OF THE REPAYMENT AGREEMENT WITHOUT AN ELECTION, IF
41 THE PLEDGE OF REVENUES DOES NOT VIOLATE ANY COVENANT PERTAINING TO THE
42 UTILITY SYSTEM OR SYSTEMS OR THE REVENUES PLEDGED TO SECURE OUTSTANDING BONDS
43 OR OTHER OBLIGATIONS OF THE CITY OR TOWN. An election is not required if
44 voter approval has previously been obtained for substantially the same
45 project with another funding source or if the project is constructed with an

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1 improvement district. If a majority of the qualified electors voting on the
2 question:

3 1. Approves, the governing body may execute, deliver and perform the
4 financial assistance loan repayment agreement.

5 2. Disapproves, the governing body shall not execute a financial
6 assistance loan repayment agreement.

7 D. Payments made pursuant to a financial assistance loan repayment
8 agreement are not subject to section 42-17106.

9 E. A financial assistance loan repayment agreement entered into
10 pursuant to this section shall contain the covenants and conditions
11 pertaining to the construction, acquisition or improvement of a wastewater
12 treatment or drinking water facility or nonpoint source project and repayment
13 of the loan as the water infrastructure finance authority of Arizona deems
14 proper. Financial assistance loan repayment agreements may provide for the
15 payment of interest on the unpaid principal balance of such agreement at the
16 rates established in the agreement. The agreement may also provide for
17 payment of the city's or town's proportionate share of the expenses of
18 administering the clean water and drinking water revolving funds established
19 by sections 49-1221 and 49-1241 and may provide that the city or town pay
20 financing and loan administration fees approved by the water infrastructure
21 finance authority. These costs may be included in the levy or assessment
22 amounts pledged to repay the financial assistance. Cities and towns are
23 bound by and shall fully perform the loan repayment agreements, and the
24 agreements are incontestable after the loan is funded by the water
25 infrastructure finance authority of Arizona. The city or town shall also
26 agree to pay the authority's costs in issuing bonds or otherwise borrowing to
27 fund a loan.

28 F. A financial assistance loan repayment agreement under this section
29 does not create a debt of the city or town, and the authority shall not
30 require that payment of a financial assistance loan repayment agreement be
31 made from other than those sources permitted in subsection B of this section
32 and as prescribed by sections 49-1225 and 49-1245.

33 G. A city or town may employ attorneys, accountants, financial
34 consultants and such other experts in their field as deemed necessary to
35 perform services with respect to the financial assistance loan repayment
36 agreement.

37 H. This section is supplemental and alternative to any other law under
38 which a city or town may borrow money or issue bonds. This section shall not
39 be construed as the exclusive authorization to enter into loan agreements
40 with the authority.

41 I. A city or town may borrow additional monies or enter into
42 additional financial assistance loan repayment agreements with the water
43 infrastructure finance authority in an amount up to the amount approved by
44 the voters pursuant to subsection C of this section less the amount that the
45 city or town is already obligated to repay to the water infrastructure

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1 finance authority pursuant to a financial assistance loan repayment
2 agreement.

3 J. For THE purposes of this section:

4 1. "City" includes both cities formed pursuant to this title and
5 charter cities.

6 2. "Nonpoint source project" has the same meaning prescribed in
7 section 49-1201.

8 Sec. 3. Section 48-959, Arizona Revised Statutes, is amended to read:
9 48-959. Dissolution of district

10 Any district organized under this article shall be dissolved by its
11 board of directors when all bonds and other obligations of the district are
12 paid or have become barred by the statute of limitations, and the operation
13 and maintenance functions of the district or the major part thereof have been
14 taken over by an incorporated city or town or, by the county OR BY A UTILITY.

15 Sec. 4. Section 48-1019, Arizona Revised Statutes, is amended to read:
16 48-1019. Drinking water facility and wastewater facility
17 projects; financial assistance loan repayment
18 agreements; definitions

19 A. Notwithstanding any other law, a domestic water OR WASTEWATER
20 improvement district may construct, acquire, or improve a drinking water,
21 WASTEWATER OR WATER RECLAMATION facility with monies borrowed from or
22 financial assistance, including forgivable principal, provided by the water
23 infrastructure finance authority of Arizona pursuant to title 49, chapter 8.

24 B. To repay financial assistance from the authority a district may
25 enter into a financial assistance loan repayment agreement with the
26 authority. A financial assistance loan repayment agreement is payable from
27 any revenues otherwise authorized by law to be used to pay long-term
28 obligations.

29 C. FOR A DISTRICT WITH A POPULATION OF MORE THAN FIFTY THOUSAND
30 PERSONS, THE BOARD OF DIRECTORS OF THE DISTRICT SHALL SUBMIT THE QUESTION OF
31 ENTERING AND PERFORMING A FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT TO
32 THE QUALIFIED ELECTORS VOTING AT A REGULAR OR SPECIAL ELECTION IN THE
33 DISTRICT. AN ELECTION IS NOT REQUIRED IF VOTER APPROVAL HAS PREVIOUSLY BEEN
34 OBTAINED FOR SUBSTANTIALLY THE SAME PROJECT WITH ANOTHER FUNDING SOURCE. FOR
35 A DISTRICT WITH A POPULATION OF FIFTY THOUSAND PERSONS OR LESS, the board
36 ~~shall obtain approval for~~ MAY ENTER INTO the financial assistance loan
37 repayment agreement ~~in the same manner provided by law for approving and~~
38 ~~issuing other obligations payable from those revenues that are to be used to~~
39 ~~pay the loan~~ ON THE APPROVAL OF THE BOARD AND AN ELECTION IS NOT REQUIRED.

40 D. A financial assistance loan repayment agreement entered into
41 pursuant to this section shall contain the covenants and conditions
42 pertaining to the construction, acquisition or improvement of a drinking
43 water, WASTEWATER OR WATER RECLAMATION facility and repayment of the loan as
44 the authority deems proper. Financial assistance loan repayment agreements
45 may provide for the payment of interest on the unpaid principal balance of

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1 the agreement at the rates established in the agreement. The agreement may
2 also provide for payment of the domestic water OR WASTEWATER improvement
3 district's proportionate share of the expenses of administering the drinking
4 water revolving fund established by ~~section~~ SECTIONS 49-1221 AND 49-1241 and
5 may provide that the domestic water OR WASTEWATER improvement district pay
6 financing and loan administration fees approved by the authority. These
7 costs may be included in the assessment OR REVENUE amounts pledged to repay
8 the loan. Districts are bound by and shall fully perform the loan repayment
9 agreements, and the agreements are incontestable after the loan is funded by
10 the authority. The domestic water improvement district shall also agree to
11 pay the authority's costs in issuing bonds or otherwise borrowing to fund a
12 loan.

13 E. A financial assistance loan repayment agreement under this section
14 does not create a debt of the domestic water OR WASTEWATER improvement
15 district, and the authority shall not require that payment of a loan
16 agreement be made from other than those sources permitted in subsection B of
17 this section.

18 F. A domestic water OR WASTEWATER improvement district may employ or
19 contract for the services of attorneys, accountants, financial consultants
20 and other experts in their field as deemed necessary to perform services with
21 respect to the financial assistance loan repayment agreement.

22 G. This section is supplemental and alternative to any other law under
23 which a district may borrow money or issue bonds. This section shall be
24 construed as the exclusive authorization to enter into loan agreements with
25 the authority.

26 H. A district may borrow additional monies or enter into additional
27 financial assistance loan repayment agreements with the water infrastructure
28 finance authority in an amount up to the amount approved pursuant to
29 subsection C of this section less the amount that the district is obligated
30 to repay to the water infrastructure finance authority pursuant to a
31 financial assistance loan repayment agreement.

32 I. For the purposes of this section—

33 1. "authority" means the water infrastructure finance authority of
34 Arizona.

35 2. ~~"Board" means the water infrastructure finance authority of Arizona~~
36 ~~board of directors.~~

APPROVED BY THE GOVERNOR MAY 2, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2006.